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*Defendant's Counsel Listed on the Next Page*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ADRIENNE HUDSON, individually and on behalf  
of all others similarly situated,

Plaintiffs,

vs.

FIRST TRANSIT, INC.,

Defendants.

Case No.: C10-03158 WHA

CLASS ACTION

**STIPULATION OF CONFIDENTIALITY  
AND ~~PROPOSED~~ PROTECTIVE  
ORDER**

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7 Attorneys for Defendant First Transit, Inc.  
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1 Plaintiff Adrienne Hudson (“Plaintiff”) and Defendant First Transit, Inc. (“Defendant”),  
 2 through their respective counsel, seek this Court’s approval of this Stipulation of Confidentiality and  
 3 Protective Order.

4 WHEREAS, pretrial discovery in *Adrienne Hudson v. First Transit, Inc.*, United States  
 5 District Court for the Northern District of California, Case No. C10-03158 WHA) (the “Action”), may  
 6 require disclosure of confidential information and documents, including proprietary material, company  
 7 confidential, trade secret, personnel information, or other confidential information (the “Confidential  
 8 Materials” defined herein); and

9 WHEREAS, Plaintiff and Defendant (collectively the “Parties”) desire to maintain the  
 10 confidentiality of the Confidential Materials.

11 NOW, THEREFORE, IT IS HEREBY STIPULATED by and between the Parties to  
 12 this Action, through their respective counsel, as follows:

13 CONFIDENTIAL MATERIALS

14 1. The term “CONFIDENTIAL MATERIALS” shall mean the following information that  
 15 any Party to this Action may produce, receive, or disclose from another Party or non-party, including  
 16 consumer reporting agencies:

17 a. Any non-public, proprietary business information pertaining to Defendant or  
 18 non-parties, including without limitation trade secrets, contracts with third-party vendors and  
 19 customers, customer information, business plans, product or pricing information, and customer lists;

20 b. The personnel records of current or former employees or applicants of  
 21 Defendant, Defendant’s parent company and affiliates, or non-parties acquired by or otherwise  
 22 associated with Defendant;

23 c. Any sensitive or private personal information, such as social security numbers,  
 24 driver’s license numbers, home or business addresses, home or business phone numbers for any  
 25 individual, financial or tax information, and medical information;

26 d. Consumer reports prepared by non-party consumer reporting agencies.

27 2. The Disclosing Party shall designate as “CONFIDENTIAL” only information that the  
 28 Disclosing Party in good faith believes is confidential, that normally would not be revealed to third

1 parties, and that is maintained in confidence.

2 3. All information designated as "CONFIDENTIAL" by the Disclosing Party shall not be  
3 disclosed by any of the other Parties to any person or entity other than those persons designated herein  
4 and, in any event, shall not be used for any purpose other than in connection with the Action. Such  
5 information may be disclosed only to the following:

6 a. The Court and court officials (subject to provisions for filing under seal, set out  
7 below);

8 b. Counsel of record for any Party, including their associates, paralegals, and  
9 clerical personnel;

10 c. The Parties; for Defendant this includes current officers, directors, registered  
11 representatives, employees and agents of Defendant, its parent company and affiliates; for Plaintiffs,  
12 this includes Plaintiff Adrienne Hudson, other named Plaintiffs (if added), and putative and actual class  
13 members.

14 d. A former officer, director, agent, registered representative or employee of a  
15 Party deemed necessary by counsel to aid in the prosecution, defense or settlement of this Action;

16 e. Persons retained or consulted by the Parties or their attorneys for purposes of  
17 this litigation (including, but not limited to, accountants, marketing consultants, financial advisors,  
18 statisticians and economists), if such persons reasonably require the information to enable them to  
19 assist counsel in the prosecution or defense of this litigation, provided that no such disclosure shall be  
20 made to any person employed by any competitor of Defendant, except upon further order of the Court;

21 f. Any court reporter who takes testimony;

22 g. A non expert witness or potential witness at or in preparation for any noticed  
23 deposition or other proceeding in this Action;

24 h. A non expert witness or potential witness who may testify at trial;

25 i. Any persons or third party contractors employed by any Party in one or more  
26 aspects of copying, organizing, filing, coding, converting, storing, or retrieving data or designing  
27 programs for handling of data or documents in connection with this Action;

j. Any other person as to whom the Parties agree in writing. To the extent counsel or any of their expert consultants, witnesses, or potential witnesses prepare summaries of "CONFIDENTIAL" materials, or cause such summaries to be prepared, such summaries shall be subject to the terms of this Protective Order;

k. Magistrate Judge Joseph Spero or any other individual who may be appointed or selected to mediate or oversee settlement discussions of this matter.

l. Persons designated by the Court upon such terms as the Court may deem proper; and

m. Persons or entities that produced or originally created the Confidential Materials or any indicated author or recipient of the material.

4. No disclosure of materials designated as "CONFIDENTIAL" by any Disclosing Party may be made to any person pursuant to the terms of paragraphs 3(d), 3(e), 3(g), 3(h), 3(i), or 3(j) unless that person first executes an agreement to be bound by the terms of this Order in the form attached hereto as **Exhibit A**. This Order shall be binding upon the Parties (including all employees and agents of the Parties), counsel for any Party (including their associates, paralegals, and clerical personnel), and all persons who, pursuant to the preceding sentence, have executed an agreement to be bound by the terms of this Order. No person or entity upon whom this Order is binding shall use materials designated as "CONFIDENTIAL" for any purpose other than in connection with the Action. If a witness at a deposition refuses to sign **Exhibit A**, the Parties shall meet and confer with each other and, if necessary, submit the issue to the Court prior to the disclosure to the witness of any "CONFIDENTIAL" document.

5. Counsel shall keep a record of all copies of each "CONFIDENTIAL" document distributed, in whole or in part, to any qualified person. Any copy so distributed shall be returned to the distributing counsel after the completion of the qualified person's consultation or participation in this action.

6. With respect to documents that the Disclosing Party reasonably believes contain Confidential Materials, the Disclosing Party shall either stamp such documents "CONFIDENTIAL" before the time of production or when photocopied and delivered or designate categories of documents

1 in container(s) marked "CONFIDENTIAL" and provide a description of the designated categories of  
2 documents in the container(s). Such documents will also bear a Bates stamp number, or some other  
3 mutually agreeable identifying number.

4 7. To the extent Confidential Materials or information obtained therefrom are used in the  
5 taking of depositions, such documents or information shall remain subject to the provisions of this  
6 Protective Order. On the record at a deposition, a Party may designate as "CONFIDENTIAL" the  
7 testimony which it reasonably believes discloses Confidential Materials. The Designating Party shall  
8 be responsible to instruct the court reporter to segregate confidential from non confidential testimony  
9 and exhibits in separate transcripts. Confidential portions of deposition transcripts shall be treated in  
10 the same manner as any other "document" described in this Order.

11 8. Nothing in this Protective Order shall prevent any Party from disclosing its own  
12 Confidential Materials as it deems appropriate. Such disclosure shall not constitute a waiver of the  
13 designation of such confidential materials as "CONFIDENTIAL."

14 9. If any Party objects to the designation of any materials as "CONFIDENTIAL," that  
15 Party shall state the objection by letter to counsel for the Party making the designation. Each Party  
16 shall have the right, on reasonable notice, and after meeting and conferring with the Designating Party  
17 in a good faith effort to resolve the matter informally, to apply to the Court for a determination of the  
18 issue consistent with Judge Alsup's courtroom procedures, or those courtroom procedures of the  
19 District Court Judge to whom the matter may later be assigned. See Supplemental Order to Order  
20 Setting Initial Case Management Conference in Civil Cases Before Judge William Alsup, ¶ 25. Until  
21 the Court rules on the dispute, the materials shall continue to be treated and designated as  
22 "CONFIDENTIAL." The burden of establishing that any information designated as  
23 "CONFIDENTIAL" meets the definition set forth herein shall be on the Party which seeks to uphold  
24 the designation.

25 10. Any Party seeking to file Confidential Materials under seal with the Court must first  
26 allow the designating part a reasonable opportunity to obtain an order from the Court, pursuant to Civil  
27 Local Rule 79-5, authorizing the sealing of the particular documents, or portions thereof. Once the  
28 Party seeking to file Confidential Materials with the Court under seal has obtained an order from the

1 Court authorizing the sealing of the particular documents, or portions thereof, the Party may then file  
2 Confidential Materials with the Court in sealed envelopes or other appropriate sealed containers on  
3 which shall be endorsed the title of the action to which it pertains, an indication of the nature of the  
4 contents of the sealed envelope or other container, the word "CONFIDENTIAL," and a statement  
5 substantially in the following form:

6           This envelope is sealed pursuant to Order of the Court entered [date of this Order], and  
7           contains confidential information.

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9           If the Court denies the application, the Party wishing to file the Confidential Materials is free to  
10 do so in the normal course and not under seal regardless of the terms of this Protective Order.

11           11. Any court hearing that refers to or describes Confidential Materials may, in the Court's  
12 discretion, be *in camera*.

13           12. If a Party in possession of materials designated as "CONFIDENTIAL" receives a  
14 subpoena from a non-party to this Protective Order that seeks production or other disclosure of  
15 Confidential Materials, it or she shall immediately give written notice to counsel for the Party who  
16 designated the materials as "CONFIDENTIAL," stating the materials sought and enclosing a copy of  
17 the subpoena. Where possible, at least ten (10) calendar days' notice before production or other  
18 disclosure should be provided. In no event shall production or disclosure be made before telephonic  
19 notice is given and, whenever possible, sufficiently in advance of production or disclosure to afford the  
20 Party to whom such notice has been given at least three business days to take appropriate action,  
21 including seeking judicial relief.

22           13. Upon final resolution of this Action, including appeals, all Parties and persons to whom  
23 any Confidential Materials have been disclosed or provided shall either destroy all such Confidential  
24 Materials or return them to the Disclosing Party; provided, however, that this obligation shall not  
25 extend to any Confidential Materials included in conformed copies of materials filed with the Court or  
26 copies required to be kept by Counsel of record for any Party in compliance with state bar  
27 requirements or errors or omissions insurance policies. The Parties further agree that their obligations  
28 under this Protective Order will not terminate upon final resolution of this Action, and that this



1 Protective Order will remain in effect in perpetuity.

2 14. Neither the taking of any action in accordance with the provisions of this Protective  
3 Order, nor the failure to object thereto, shall be construed as a waiver of any claim or defense in this  
4 Action. The entry of this Order shall not be construed as a waiver of any right to object on any other  
5 grounds to the furnishing of information in response to discovery and, except as expressly provided,  
6 shall not relieve any Party of the obligation to produce information in the course of discovery.

7 15. This Protective Order shall not prevent any Party from applying to the Court for relief  
8 therefrom, or from applying to the Court for further or additional protective orders, or from agreeing to  
9 modify this Protective Order, subject to the approval of the Court.

10 16. This Protective Order shall not control the use of any evidence during the trial of this  
11 Action. However, nothing herein shall preclude any Party from seeking the assistance of the Court in  
12 maintaining the confidential nature of any evidence that is presented at trial.

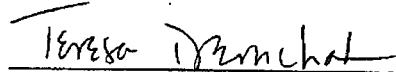
13 17. After the date of the Protective Order, if a Party inadvertently produces or provides  
14 discovery of any Confidential Materials without designating them as such, the Disclosing Party may  
15 give written notice to the Party or Parties that have received the Confidential Materials that the  
16 document(s), information, response, testimony, or other discovery are Confidential Materials and  
17 should be treated as confidential in accordance with the provisions of this Order. The Party or Parties  
18 that have received the materials must treat the materials as confidential from the date such notice is  
19 received. The inadvertent disclosure of any confidential document or information shall not be deemed  
20 a waiver of confidentiality as to any other document in which such information may be contained.

21 18. The Court may modify the Protective Order in the interests of justice or public policy.  
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1 Dated: November 19, 2010

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10 Dated: November \_\_, 2010

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ATTORNEYS FOR DEFENDANT

18 Except that the Court will not retain jurisdiction to enforce this order after this action is  
closed, PUSUANT TO THE ABOVE STIPULATION,

19 **IT IS SO ORDERED.**

21 Dated: November 22, 2010.



THE HONORABLE WILLIAM H. ALSUP  
UNITED STATES DISTRICT JUDGE

**EXHIBIT A****WRITTEN ASSURANCE OF CONFIDENTIALITY**

I, \_\_\_\_\_, have read and fully understand the “Stipulation of Confidentiality and Protective Order” in *Adrienne Hudson v. First Transit, Inc.*, United States District Court, For the Northern District of California, Case No. C10-03158 (WHA) (the “Protective Order”). I agree to comply with and be bound by the Protective Order. I agree that I will not disclose any Confidential Materials, as defined in the Protective Order, to any persons or in any manner not specifically authorized by the Protective Order, and I agree that I will not copy, use or disclose any Confidential Materials except solely in connection with the case referenced above.

I declare under penalty of perjury of the laws of the United States and the State of California that the foregoing is true and correct and that this Declaration was executed at \_\_\_\_\_, \_\_\_\_\_, on \_\_\_\_\_, 20\_\_.

Signed: \_\_\_\_\_

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